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DEPARTMENT FOR DRL

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SUBJECT: UNGA THIRD COMMITTEE DISCUSSES PROMOTION AND
PROTECTION OF HUMAN RIGHTS

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11. SUMMARY: From October 21-30, the UN General Assembly Third Committee formally discussed the promotion and protection of human rights, and on October 31, the Committee heard the report of the Human Rights Council. Key themes from the two-week discussion included freedom of expression, freedom of assembly, freedom of association, freedom of religion, strengthening the rule of law, respecting human rights in fighting terrorism, and eliminating the use of torture. Many delegates emphasized the need to address broader problems, particularly those outlined in the Millennium Development Goals, in order to fully promote and protect human rights. Mentions of specific countries' human rights practices drew heated reactions, particularly the Special Rapporteurs' reports on the human rights situations in Burma, the Democratic People's Republic of Korea (DPRK), and the West Bank and Gaza. The DPRK, Cuba, China and Russia reacted strongly to the U.S. statement outlining human rights violations in a number of countries of concern, interrupting DRL A/S Kramer to the extent that he was unable to finish delivering the statement. The question of UN human rights institutional and bureaucratic leadership consistently was explored, with developing countries and many countries known to violate citizens' rights throwing their weight behind the Human Rights Council and calling for a clearer division of work between the Council and the Third Committee. END SUMMARY

12. During 14 formal meetings October 21-30, the UN General Assembly (UNGA) Third Committee discussed the promotion and protection of human rights, including the following sub-topics: implementation of human rights instruments; human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms; human rights situations and reports of special rapporteurs and representatives; comprehensive implementation of and follow-up to the Vienna Declaration and Program of Action; and the Convention on the Rights of Persons with Disabilities. In a formal meeting on October 31, the committee heard the report of the Human Rights Council (HRC), presented by the HRC President. The complete texts of all U.S. statements can be found at www.usunnewyork.usmission.gov.

13. The October 21-30 discussion included the presentation of reports by and/or dialogue sessions with the following experts: the Special Rapporteurs on freedom of religion or belief; the promotion and protection of human rights while countering terrorism; the situation of human rights in Myanmar (Burma); the situation of human rights in the Democratic People's Republic of Korea (DPRK); the situation of human rights in "the Palestinian territories occupied since 1967;" torture and other cruel, inhuman or degrading treatment or punishment; extrajudicial, summary or arbitrary

executions; violence against women, its causes and consequences; the situation of human rights defenders; the independence of judges and lawyers; the right to education; adequate housing as a component to the right to an adequate standard of living; on the right to food; and the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Independent Experts on the question of human rights and extreme poverty; the effects of foreign debt and other related international financial obligations of States on the full enjoyment of human rights, particularly economic, social, and cultural rights; the Chairperson of the Working Group on the Right to Development; the Representative of the Secretary-General (SYG) on the human rights of internally displaced persons (IDPs); and the Special Representative of the SYG on human rights and transnational corporations and other business enterprises.

KEY THEMES

14. There were a number of recurring key themes throughout the two-week discussion. In general statements, many delegations highlighted the need to protect freedom of expression, freedom of assembly and association, and freedom of religion, and to strengthen the rule of law. (NOTE: Freedom of religion was more thoroughly addressed during the discussion on racism and xenophobia, particularly the push by the Organization of the Islamic Conference to take measures against "defamation of religion;" full report reftel.) Protecting the rights of vulnerable groups, such as the elderly, women and children, disabled persons, minorities, and internally displaced persons was also a common topic. Many speakers noted the need to close the gap between human

rights commitments and implementation.

15. Speakers from many developing countries emphasized the need to address many broader problems in order to establish an environment conducive to the protection and promotion of human rights. This could be done, they said, by focusing on fulfillment of the Millennium Development Goals (MDGs), particularly through poverty eradication. Several of the same speakers, including those from Central and Latin American states, highlighted the importance of protecting citizens' economic, social, and cultural rights, calling for ratification of the new Optional Protocol to the International Covenant on Economic, Social, and Cultural rights as a good starting point. The High Commissioner for Human Rights stressed the need for a rights-based approach to development, including in implementing the MDGs, focusing on prioritizing people's basic needs over political issues. She expressed concern regarding the tendency of post-conflict countries to ignore human rights in the name of security. The High Commissioner also noted that climate change and extreme weather were causing a number of emerging human rights issues requiring attention, including the right to food and water, to adequate housing, and to life itself. The Independent Expert on the question of human rights and extreme poverty underscored the need to approach extreme poverty from a human rights perspective, especially in light of the current food and financial crises.

16. Though approaching the issue from different angles, speakers from several Arab, Latin American, and European countries mentioned the importance of respecting human rights in the fight against terrorism. Some speakers accused the United States of committing acts of torture, through methods such as waterboarding (see paragraph 11 below). While not referring to the United States, the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment listed waterboarding as a form of torture. The Special Rapporteur on the promotion and protection of human rights while countering terrorism stated that promoting and protecting human rights was "an essential element" to effectively combat terrorism. He reaffirmed his "misgivings" regarding the operation of U.S. Military Commissions in Guantanamo Bay, stating that he found it "highly unlikely"

that they would be able to conduct trials in accordance with international human rights law standards. The Special Rapporteur on extrajudicial, summary or arbitrary executions said that military justice systems are often incompatible with human rights obligations, noting that military personnel who commit extrajudicial executions often receive only minor punishments, or are not punished at all. Speaking of his May visit to Afghanistan, the Special Rapporteur called for international military forces to "get serious" about promoting accountability and transparency in response to alleged killing of civilians. Speaking of his June visit to the United States, the Special Rapporteur said that "significant reforms are urgently needed to the criminal justice system to prevent the execution of innocent people." He also called for reforms to reduce the number of deaths in U.S. immigration detention facilities, and to conduct full and open investigations into all deaths of detainees at Guantanamo Bay.

EXPERTS' COUNTRY HUMAN RIGHTS REPORTS

¶7. The October 23 presentations by three experts on the human rights situations in specific countries were highly attended and drew mixed reactions. Special Rapporteur on the situation of human rights in Myanmar (Burma) Tomas Ojea Quintana said that while the Burmese government's recent release of seven prisoners of conscience was a positive step, problems remained, including continuing arrests of political activists, the food crisis, and the military's use of violence against unarmed civilians. To move forward, Quintana said he had recommended that the government address four core human rights areas: revising domestic laws to ensure compliance with international human rights standards, and including human rights provisions in the new constitution; releasing all prisoners of conscience; providing human rights training for and reforming the military; and ensuring judicial independence to uphold the rule of law. The Burmese delegation responded to Quintana's presentation by noting appreciation for the Special Rapporteur's "openness and candor," and desire to cooperate with the Burmese government. However, the delegate said, criticisms made by Quintana and others regarding the Burmese government's response to international humanitarian

assistance efforts in the wake of Cyclone Nargis were false. The delegate also claimed that the report "readily lends an ear" to incorrect allegations of irregularities surrounding a recent constitutional referendum. (NOTE: In UNGA Third Committee formal meetings, the Burmese delegation consistently has made Points of Order when other delegations refer to the country as "Burma" rather than "Myanmar," prompting the Secretariat to restate its pro-forma request for delegations to call countries by their name as recognized by the UN.)

¶8. Special Rapporteur on the situation of human rights in the DPRK Vitit Muntarbhorn said that the situation remained grave in terms of "inequity" which Muntarbhorn summed up as "the elite do well, while the rest are left at the margins of development;" disparity in access to food; "severely constrained" civil and political rights, including "rigid control" over the media, the profession of religious beliefs, and abductions of foreign nationals; and restrictions on freedom of movement. Muntarbhorn implored the DPRK government to take a number of immediate short-term steps, including extending an invitation to him to enter the country and assess the human rights situation at the ground level, as well as a number of specific longer-term steps. The United States, France (on behalf of the European Union - EU), the United Kingdom, and the Czech Republic called upon the DPRK to cooperate with the Special Rapporteur and to grant him access to visit the country. The delegate from the DPRK stated that his government "totally opposed and categorically rejected" the report, which he labeled as "political fraud." He said that the DPRK's position of not recognizing or accepting the resolution that had established the Special

Rapporteur's mandate remained unchanged. Further, the delegate said that imposing Western values on the DPRK was "a waste of time and a dream that could never come true."

¶9. Of the country-specific reports, Special Rapporteur on the situation of human rights in "the Palestinian Territories occupied since 1967" Richard Falk's presentation was the most controversial. Noting that only a country visit would allow for first-hand observation of the situation, Falk stated that Israel's failure to ease restrictions on movement of Palestinians subject to occupation and to freeze settlement expansion activity, as stipulated in the November 2007 Annapolis Joint Statement, seriously violated the human rights of Palestinians. While the current cease-fire, which came into effect on June 20, has been "generally effective," Falk said that there was evidence suggesting "a harsher regime of confinement and siege imposed on the Gazan population." Falk criticized Israel's persistence in constructing a wall in Gaza, and deemed the "severe hardships associated with the unlawful features of this occupation" an urgent matter requiring UN decisive action. Israel reacted to Falk's presentation by noting that it had hoped for an insightful, balanced, and constructive approach; rather, the report was one-sided and reflected Falk's "highly politicized" views. The Palestinian observer expressed hope that Falk would be able to visit the region, and said it was "high time" for the international community to "wake up" and fulfill its commitments in moving the peace process forward. The United States called the report "one-sided," said that it mischaracterized the Annapolis Conference and failed to include terrorist acts committed against Israel. The United States also noted its concern regarding Falk's "biased" mandate, stating that the international community could not expect much from a Special Rapporteur obliged "to concentrate only on potential violations committed by one party in a two-party conflict." Recognizing that Falk had requested a broadening of his mandate, the United States called on the Human Rights Council (HRC) to review the current mandate and eliminate the standing agenda item on Israel. France (on behalf of the EU) called for Israel and the Palestinian Authority to cooperate with the Special Rapporteur and allow him to visit the West Bank and Gaza. Falk said he regretted the "personal attack" by Israel's representative.

COUNTRY-SPECIFIC STATEMENTS TRIGGER HEATED REACTION

¶10. In statements delivered during two formal sessions October 29-30, France (on behalf of the EU), New Zealand, Australia, and the United States outlined serious human rights violations in specific countries of concern. France detailed abuses in Burma, the DPRK, Sudan, Sri Lanka, the Democratic Republic of Congo, Iran, Zimbabwe, Somalia, Belarus, Uzbekistan, and Cuba; New Zealand spoke of violations in the DPRK, Sudan, Zimbabwe, the West Bank and

Gaza, Iran, and Afghanistan; and Australia listed problems in Burma, Sudan, the DPRK, and Fiji. DRL A/S Kramer delivered the U.S. statement, which outlined human rights violations in Iran, the DPRK, Burma, Syria, Uzbekistan, Zimbabwe, Sudan, Cuba, Belarus, Russia, and China. When A/S Kramer reached the seven-minute time limit, delegates from Cuba, Russia, Iran, and China repeatedly interrupted him with Points of Order, noisily banging their placards against the desk to the extent that the Vice Chair was unable to allow A/S Kramer to finish reading the written statement. (NOTE: During the 63rd session of Third Committee plenary meetings, many speakers have exceeded the time limit, and none of the others were interrupted by other delegations with Points of Order regarding the time limit.)

¶11. Each of the country-specific statements triggered a flurry of Right of Reply statements from countries named as human rights abusers, but the responses to the U.S. statement were the most critical. Cuba, Iran, Sudan, and Syria accused the United States of committing serious human rights violations at the U.S. military's Guantanamo Bay Detention

facility, including the use of torture via methods such as waterboarding, and keeping detainees in "horrendous conditions." The DPRK, Iran, and Syria accused the United States of committing human rights abuses in Iraq and Afghanistan, taking the lives of innocent civilians, as well as supporting alleged abuses committed by Israel in the West Bank and Gaza. Syria and the DPRK said that the United States interferes in the internal affairs of other countries.

Cuba, Iran, and Sudan accused the United States of discriminating against immigrants and racial minorities within the United States, with Cuba maintaining that the United States applies segregationist policies in its schools and prisons. Russia argued that the United States had its own freedom of expression problems, citing the case of a New York Times journalist (presumably Judith Miller), and the alleged detention by U.S. forces in Iraq and Afghanistan of 12 journalists. Cuba also accused the United States of allowing thousands of citizens to die in the wake of natural disasters.

SPLIT VIEWS ON UN HUMAN RIGHTS LEADERSHIP

¶12. Throughout the two-week discussion, the question of UN leadership on human rights issues consistently was explored. The United States and the EU, via France's statements, maintained that treaty bodies were most important in overseeing national implementation of international treaty obligations. However, some countries, such as Algeria and Russia, argued that working with these bodies was too complicated, entailing heavy reporting burdens and lacking transparency and fairness. Many speakers noted the need to more clearly delineate the division of work between the UNGA Third Committee and the HRC. A few speakers lauded the Universal Periodic Review (UPR) process and encouraged all Member States to cooperate fully with the Council. Others, including the DPRK and Belarus, took a more hostile approach, accusing the United States and the EU of undermining the work of the HRC. The representatives of several countries known to violate citizens' human rights, such as the DPRK, Iran, Cuba and Russia bemoaned the "politicization" of human rights discussions within the UN, claiming that human rights abuses by the United States and the EU countries were ignored, while those in "weaker" states were singled out in a process that Iran described as "naming and shaming."

THE HRC REPORT

¶13. On October 31, HRC Council President Martin Ihoeghian Uhomoibhi briefed the Committee on the HRC Report and the Council's work, including 106 resolutions, 35 decisions, five President's statements, and review of 24 Special Procedures. During the year, the first group of 32 countries had been reviewed under the UPR process; Uhomoibhi explained that all Member States were scheduled to be reviewed by 2011. He urged Member States to adopt and ratify the Optional Protocol to the International Covenant on Economic, Social, and Cultural Rights. The Committee's reaction to the HRC Report was mixed, with many developing nations (notorious human rights abusers among them) praising the Council's work, and others maintaining some reservations. The overall mood can best be summed up by the Korean delegation's pronouncement that it was "prudent though optimistic" in its expectations for the HRC. In the discussion following Uhomoibhi's presentation, Israel and the United States expressed concern

regarding the Council's biased approach towards Israel.

¶14. In accordance with a decision by UNGA's General Committee, the HRC report was allocated for discussion this year to both the Third Committee and the UNGA Plenary. The Plenary took up the report on November 4. Fifteen delegations took the floor following HRC President Uhomoibhi's introduction. Speaking for the EU, France urged the HRC "to come up with balanced solutions" to the human rights problems in the West Bank and Gaza, called on the

Council "not to lower its guard in terms of the situations that deserve our full attention," and said it hoped the experience of the two previous sessions of the UPR would improve the current one and that in future the UPR "should be consolidated to guarantee that the recommendations and pledges made by the States under review are effectively implemented." New Zealand, announcing it would stand for election to the Council next year, also called on Member States to implement UPR recommendations and said it hoped the UPR and the work of the treaty bodies would help close the gap between policy and practice in the area of human rights. Switzerland said it strongly opposed any attempt by the HRC to impose control over the Office of the High Commissioner for Human Rights.

¶15. Former HRC President Costea (Romania) said gross and systematic human rights violations should not be prevented from being brought before the HRC by accusations of "selectivity." But Egypt said the Council should avoid country-specific resolutions, Russia and Iran said the UPR should replace country-specific resolutions, and the DPRK rejected the "stereotyped" DPRK resolution adopted in the Council's seventh session. Israeli Deputy PermRep Daniel Carmon protested the Council's "obsessive and discriminatory" targeting of Israel and said, "Certain members of the Council appear intoxicated with the automatic majority they enjoy as they abuse the Council's procedures and mechanisms." He said the Council had evaded its duty to review the mandate of the Special Rapporteur on the situation of human rights in the West Bank and Gaza, pointing out that "Even the Special Rapporteur himself publicly called for the mandate to be reviewed and updated."

¶16. On the procedural question of whether to allocate discussion of the HRC report to the Third Committee or the UNGA Plenary, Brazil and Mexico said the Plenary is the appropriate place. Senegal said the General Committee's decision to split the report's allocation was not ideal, but would do until the five-year review of the HRC. Egypt said it went along with the decision only on the understanding that it does not prejudice the right of Member States in the Third Committee to address "all issues considered in the report." (NOTE: The General Committee also decided the split allocation will be reviewed before the beginning of the 64th UNGA session.)
Wolff